



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 080013

Petitioners, Roger and Sarah Kitterman, applied to the Building Commissioner for permission to construct a two-story room addition per plans to the rear of their property at 51 Kenwood Street, Brookline. The application was denied and an appeal was taken to this Board.

On April 17, 2008, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed June 5, 2008, at 7:00 p.m. in the Main Library on the second floor as the time and place of a hearing on the appeal.

Notice of the hearing was mailed to the Petitioners, to their attorney (if any of record), to the owners of properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published May 15, 2008 and May 22, 2008, in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: KITTERMAN ROGER D. KITTERMAN SARAH B.
Location of Premises: **51 KENWOOD ST. BRKL**
Date of Hearing: **06/05/2008**
Time of Hearing: **7:00 p.m.**

Place of Hearing: **Main Library, 2nd Floor**

A public hearing will be held for a variance and/or a special permit from

1. **5.43; Exceptions to Yard and Setback Regulations; Special Permit Required.**
2. **5.70; Rear Yard Requirements; Variance Required.**
3. **8.02.2; Alteration or Extension; Special Permit Required.**

Of the Zoning By-Law to construct a two-story room addition to the rear of the above-captioned property

At 51 KENWOOD ST. BRKL

Said Premise located in a T-5 District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing were Board Members Jesse Geller, Robert DeVries, and Jonathan Book. Petitioner was represented at the hearing by Attorney Jeffrey P. Allen.

At the hearing, Michael Shepard, Building Commissioner, distributed the Planning Board Report dated May 15, 2008.

51 Kenwood Street is a two-and-a-half story single family dwelling built in 1897 in north Brookline across from Coolidge Playground near the Brookline/Allston town line. The structure has a cross gambrel roofline with a dormer on the rear elevation. Surrounding properties include a mix of single, two-, and three-family residential dwellings.

The Petitioners, Roger and Sarah Kitterman, wish to construct a two-story addition to the rear of the dwelling and a single-story addition to the dwelling's side, as well as finish the dwelling's basement space. A small porch on the rear would be removed and the new addition would be centered along the rear façade. The two-story addition, 26 feet high with a gambrel roofline, would be 16 feet 7 inches deep by 18 feet wide and provide family room space. A new single-story mudroom addition, 8.5 feet deep by 10.8 feet wide, would be located on the side of the dwelling attached to the new rear addition and have a small porch and stairs structure. Finally, the dwelling's basement would be finished to provide for playroom and office space and a new bathroom.

Mr. Allen reviewed the zoning relief necessary for this project to go forward. The zoning relief required is as follows:

Section 5.70 – Rear Yard Requirements

Section 8.02.2 – Alteration or Extension: Special permit required to alter or modify a non-conforming structure.

Dimensional Requirements

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Finding</u>
Rear Yard Setback	30 feet	35.4 feet	18.7 feet	Special Permit*
Side Yard Setback	7.5 feet	12.2 feet & 2.9 feet	9.8 feet & 2.9 feet	Complies
Floor Area Ratio	1.0 4,500 s.f.	.54 2,443 s.f.	.86 3,847 s.f.	Complies
Landscaped Space	10% of g.f.a.	2,426 s.f. (99%)	2,051 s.f. (53%)	Complies
Usable Open Space	30% of g.f.a.	1,733 s.f. (71%)	1,173 s.f. (30%)	Complies

* Under Section 5.43, the Board of Appeals may allow by special permit the substitution of other dimensional requirements for setback requirements if counterbalancing amenities are provided.

In support of the requested special permit, Mr. Allen stated that the proposal is for an attractive addition predominantly to the rear. He emphasized that the proposal meets all zoning requirements apart from the rear yard setback, including with respect to FAR and open space. In fact, even with the addition, the building will still be below the maximum FAR allowed for the lot. Mr. Allen explained that the addition is needed to accommodate the Petitioners' growing family, who wish to remain in the neighborhood. The residence is not for rental to college students, and therefore, the addition will not result in any additional noise to the neighborhood. Mr. Allen stated that a special permit was appropriate to allow for a smaller than required rear yard; and he pointed out that thirteen out of eighteen houses in the immediate neighborhood have less than the required thirty-foot setback in the rear yard. Mr. Allen further stated that the Petitioners agreed to submit a landscaping plan in connection with permitting for the alterations and for review and approval by the Assistant Director for Regulatory Planning and to install approved landscaping to mitigate the smaller rear yard as the required counterbalancing amenity under Section 5.43.

The Chairman asked if any members of the public wished to be heard in favor of the petition for relief. Several neighbors on Kenwood Street spoke in favor of the relief and the alterations based upon their approval of the design aesthetics based on plans shown to them and stated that the alterations are consistent with other properties in the neighborhood. The Chairman asked if any members of the public wished to be heard against the petition for relief. Several neighbors on Verndale Street and other members of the public submitted written comments (Exhibits 1 and 2), and spoke against the proposal expressing concerns regarding the reduced rear yard setback and density on the lot caused by alterations, density and overcrowding within the neighborhood in general, noise from area college students, the loss of open space and generally the quality of life in the neighborhood.

Michael Shepard, Building Commissioner, gave the report on behalf of the Planning Department. He said that the Planning Board is not opposed to this proposal to construct a two-story addition to the rear of the existing dwelling. The addition has been designed to attractively integrate with the main building, with a similar roofline, windows and exterior finishes. The addition would result in a smaller rear yard setback, but one that is reasonable and similar to other houses on the street. Additionally, the smaller rear yard could be mitigated for the building's rear abutters with a careful landscaping and screening treatment, which should be provided as a counterbalancing amenity. Otherwise, the proposal meets side yard and FAR requirements. Therefore, the Planning Board recommended approval of proposal and plans, dated March 4, 2008, and the plot plan, prepared by Jack E. Hagerman and dated November 30, 2007, subject to the following conditions:

- 1. Prior to issuance of a building permit, a landscaping plan, indicating all counterbalancing amenities, shall be submitted to the Assistant Director for**

Regulatory Planning for review and approval. The landscaping shall be designed to limit the visual impact of the addition on abutters.

- 2. Prior to issuance of a building permit, final elevations shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 3. Prior to issuance of a building permit, the applicant shall submit the following to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan prepared by a registered engineer or land surveyor; 2) final elevations of the addition, prepared by a registered engineer or registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

Michael Shepard also spoke on behalf of the Building Department. He restated the various sections of the Zoning By-law under which relief is needed. Mr. Shepard stated that the Building Department has no objections to the requested relief. He further stated that he will ensure that all State Code provisions are satisfied.

The Board having deliberated on this matter and having considered the foregoing testimony, concludes that the limited nature of the relief sought is minimal and in keeping with the neighborhood in general and the requirements for issuance of a Special Permit under Sections 5.43, 8.02.2 and 9.05 of the Zoning By-Law have been satisfied and relief should be granted as requested. Thus, in accordance with the discretionary authority granted to the Board to issue special permits under Section 9.05 of the Zoning By-Law, the Board finds that the proposed alterations to the property will not be more detrimental to the neighborhood than the existing conditions. The Board further makes the following findings pursuant to Section 9.05:

1. The design of the proposed renovations and additions is in harmony with the prevailing character of the neighborhood. In particular, the Board finds that the reduction in the rear yard setback is reasonable and consistent with other houses in the neighborhood.

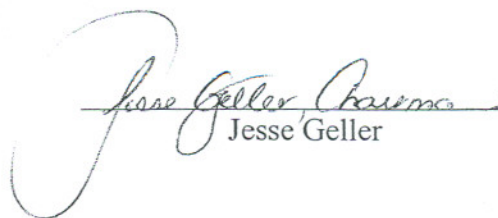
2. The specific site is an appropriate location for the proposed use and alterations to the structure and conditions proposed.
3. The renovated home will not increase the level of noise or otherwise adversely affect the neighborhood.
4. There will be no nuisance or serious hazard to vehicles or pedestrians from the use as proposed.
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
6. The home, as renovated, will not have a significant adverse effect on the supply of housing available for low and moderate-income people.

Accordingly, the Board grants special permits pursuant to Sections 5.43, 9.05 and 8.02.2 of the Zoning By-Laws, subject to the following conditions:

1. **Prior to the issuance of a building permit, a landscaping plan, indicating all counterbalancing amenities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval. The landscaping shall be designed to limit the visual impact of the addition on abutters.**
2. **Prior to issuance of a building permit, final elevations shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
3. **Prior to the issuance of a building permit, the application shall submit the following to the Building Commissioner for review and approval for conformance to the Board of Appeals Decision: 1) a final site plan prepared by a registered engineer or land surveyor; 2) final elevations of the addition, prepared by a registered engineer or registered architect; and 3) evidence that the Board of Appeals decision has been submitted to the Registry of Deeds.**

Unanimous Decision of
the Board of Appeals

Filing Date: June 18, 2008


Jesse Geller

A True Copy

ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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